



ESRI, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

**MASTER PURCHASE AGREEMENT**  
**Contract No. 2003MPA1258**

This Master Purchase Agreement ("MPA" or "Agreement") is between the governmental body ("Licensee") identified below and Environmental Systems Research Institute, Inc. ("ESRI"). The Agreement enables Licensee to acquire ESRI® geographic information system Software, services, Documentation, Data, or hardware over a defined period of time.

This Agreement is comprised of the following documents:

1. Master Purchase Agreement cover page, E111 4/03
2. State of Indiana Addendum, including MPA signature page
3. General License Terms and Conditions, Version E200M 2/02
4. ESRI Exhibit 1, Scope of Use, Version E300 5/04
5. ESRI MPA Terms and Conditions, Version E500M 8/03
6. ESRI MPA Price List, Version E404M 5/04
7. Custom Software, Technical Data, and Assistance License Addendum, Version E600 2/02, including Attachment A—Sample Task Order and Attachment B—Time and Materials Rate Schedule
8. ESRI Client Site Training Terms and Conditions, E207 1/02
9. Indiana Department of Administration State Travel Policies and Procedures, Effective Date 1/1/04

The parties acknowledge that they have read and understand this Agreement and agree to be bound by the terms and conditions contained herein.

Licensee may only use the type and number of copies of the Software, Data, and Documentation for which the appropriate license fees have been paid to ESRI in accordance with this Agreement.

This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating to such subject matter. Any modification(s) or amendment(s) to this Agreement must be in writing and signed by an authorized representative of each party.

**Licensee Contact Information**

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IT Purchasing Administrator

Fax: 317-232-7312

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City, State, ZIP: Indianapolis, IN 46204



## GENERAL LICENSE TERMS AND CONDITIONS (E200M 2/02)

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- (f) "Licensee" means the governmental body that has signed this Agreement, including its affiliate(s), and all state agencies that have been authorized to place orders pursuant to this Agreement.
- (g) "Training" means instruction provided by ESRI in the use of ESRI software, as further described in Section 9.3, and in the ESRI Client Site Training Terms and Conditions attached hereto and incorporated herein.

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#### 10.4 Reserved

**10.5 No Implied Waivers**—The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

**10.6 Severability**—The parties mutually agree that if any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable.

**10.7 Counterparts**—This Agreement may be executed in counterparts, all of which, taken together, shall be deemed one (1) original document.

**10.8 Successor and Assigns**—Licensee shall not assign, sublicense, or transfer Licensee's rights or delegate its obligations under this Agreement without ESRI's prior written consent, and any attempt to do so without consent shall be void. This Agreement shall be binding upon the respective successors and assigns of the parties to this Agreement.

**10.9 Survival of Terms**—The provisions of Articles 6, 7, 8, 9, and 10 of this Agreement shall survive the expiration or termination of this Agreement for any reason.

**10.10 Equitable Relief**—Licensee agrees that any breach of this Agreement by Licensee will cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, ESRI shall have the right to an injunction, specific performance, or other equitable relief in any court of competent jurisdiction to prevent violation of these terms and without the requirement of posting a bond or undertaking or proving injury as a condition for relief.

**10.11 Governing Law, Arbitration**—This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana without reference to conflict of laws principles.



## EXHIBIT 1 SCOPE OF USE (E300 5/04)

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- ArcGIS Schematics SDK (1, 4, 12, and 16)
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- ArcGIS Engine
  - ArcGIS Engine Developer Kit (1 and 23)
  - ArcGIS Engine Runtime (1, 4, 12, and 23)
  - ArcGIS Engine Options (Spatial Analyst, 3D Analyst™, Geodatabase (GDB) Update, StreetMap™) (1, 4, 12, and 23)
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  - ArcGIS Server Base License (1, 3, 5, 7, and 24)
  - ArcGIS Server Options (Spatial Analyst, 3D Analyst, StreetMap) (1, 3, 5, 7, and 24)
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  - ArcSDE Server (1, 3, 5, 7, and 18)
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  - ArcView Business Analyst (1, 15, and 21)
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- Maplex (1)
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- MOLE SDK (1, 4, and 12)
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- ArcPad StreetMap (1, 9, and 20)
- ArcPad Application Builder (1)
- MapObjects®—Windows Edition (1, 4, 11, 12, and 16)
- MapObjects—Java Edition (1, 3, 4, 5, 12, 16, and 17)
- MapObjects LT (1, 4, 12, and 13)
- ArcExplorer™ (1 and 19)
- NetEngine™ (1, 5, and 12)
- NetEngine Internet (3, 5, and 13)
- Production Line Tool Set (PLTS); GIS Data ReViewer; Job Tracking for ArcGIS (1)
- Data Sets (1 and 15)

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16. The Redistribution Stand-alone (or Deployment) license is per application per computer. For MapObjects—Windows Edition, Internet or Intranet Deployment requires an ArcIMS Internet Deployment License. Except for ArcIMS licenses, one (1) Internet Deployment license is required for each ArcIMS server/CPU that runs Web mapping applications built with MapObjects—Windows Edition. For MapObjects—Java Edition, Internet or Intranet Deployment requires a MapObjects—Java Internet Deployment License. An application upgrade is not a redeployment as long as it uses the same major revision of ArcGIS Schematics SDK, MapObjects—Windows Edition, or MapObjects—Java Edition.
17. The MapObjects—Java Edition contains Java Archive (JAR) files, which indicate they are authentic ESRI-certificated files when used over the Internet. Any Licensee certificate placed on the modified "re-jarred" files cannot reference ESRI as a source of trusted content. In addition to any other rights and restrictions in the Agreement, Licensee may use the MapObjects—Java Edition on a single computer to
  - (a) Build applet(s) that are used only as an internal component in end user interfaces, and to copy the applet(s) to additional computers (e.g., Web Server) from which Licensee may deploy the applet(s) to end users via download in the course of browsing or interacting with Licensee's Web pages. End user redistribution of the applet(s) is not allowed; and
  - (b) Build stand-alone Java Applications. Licensee may deploy the Java class ESRI certificated libraries as an integral part of Licensee's application(s); and
  - (c) Build servlets and/or Enterprise JavaBeans with MapObjects—Java components, requiring a MapObjects—Java Internet Deployment License for each CPU; and
  - (d) Distribute MapObjects Java applets, provided (i) Licensee's Web pages or software application(s) is targeted at end users and not as a development tool; (ii) Licensee does not use ESRI's name, logos, or trademark to market Licensee's Web pages or application(s); and (iii) Licensee includes a valid Licensee copyright notice on Licensee's Web pages and software application(s).
18. ArcSDE is licensed on a Server/CPU basis and on a one-to-one basis with a relational database, meaning Licensee shall run ArcSDE on a Server on a one-to-one basis with a database Server. In most implementations ArcSDE and the database are installed on the same Server. Each ArcSDE Server license enables the customer to have multiple ArcSDE instances if they have multiple database instances on the corresponding database Server. Licensee shall not install ArcSDE instances on more than one Server and shall not use the network to connect from the Server on which ArcSDE is installed to databases on more than one (1) Server. ArcSDE Single Use licenses are available only for use with ArcEditor Single Use Software licenses on a one-to-one basis. ArcSDE direct connections run on a client desktop computer are also Single Use licenses. ArcSDE for Coverages is licensed only in conjunction with concurrent use licenses of ArcView, ArcEditor, ArcInfo, ArcSDE Server, or ArcIMS Software. Licensee may use the ArcSDE for Coverages subject to this Agreement. ArcSDE for Coverages is not licensed separately, but may be distributed separately.
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20. Data provided with ArcPad StreetMap may be used for mapping, geocoding, and routing purposes but may not be used for dynamic routing purposes. Dynamic routing or "real-time guidance" is predictive routing and is not included in the ArcPad StreetMap functionality. For instance, ArcPad StreetMap may not be used to alert a user about upcoming maneuvers (such as warning of an upcoming turn) or calculating an alternate route if a turn is missed.
21. Subject to the Permitted Uses described below, the Data provided with Business Analyst shall not be used separately from the Software. Use of the Data provided with Business Analyst shall be subject to Footnote 15 above and are hereby supplemented by adding the following terms and conditions:
 

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## **ESRI MPA TERMS AND CONDITIONS (State and Local)**

### **ARTICLE 1—DEFINITIONS**

As used herein, the following words, phrases, or terms in this Master Purchase Agreement ("Agreement") shall have the following meanings:

**"Licensee"** means the governmental body that has signed this Agreement, including its affiliate(s), and all state agencies that place orders pursuant to this Agreement.

**"Authorized Entity"** means the state agencies that are authorized by the contracting governmental body to order and acquire Software, Data, Documentation, products, or services through this Agreement.

**"Affiliate"** means the domestic parent or subsidiary companies of the contracting governmental body or domestic subsidiary companies to contracting governmental body's parent, provided there is more than fifty percent (50%) ownership of the subsidiary by the parent or the contract governmental body.

### **ARTICLE 2—TERM OF AGREEMENT**

The Licensee's right to purchase under this Agreement shall remain in effect for two (2) years from the effective date unless terminated earlier as prescribed in Article 5—Termination; Cancellation. At the end of the initial and any succeeding term, the parties may negotiate a new term based on their mutual agreement. The term of any Software or Data licenses ordered through this Agreement shall be as stated in the General License Terms and Conditions. At its sole discretion, Environmental Systems Research Institute, Inc. (ESRI), may elect to not renew the Agreement should total orders for licenses, training, consulting, or custom application development not exceed fifty thousand dollars (\$50,000.00) per year or one hundred thousand dollars (\$100,000.00) per any two (2)-year period.

### **ARTICLE 3—PRODUCT OFFERINGS**

ESRI may, at its sole discretion, discontinue offering any Software, Data, other product, or service included in this Agreement at any time upon reasonable written notice.

ESRI may, at its sole discretion, offer new Software, services, Data, Documentation, hardware, or larger quantity discount pricing by providing written notice. ESRI may require additional license terms prior to use of new Software or Data. Such notice shall become part of this Agreement upon (i) ordering Software, hardware, or services covered by the notice or (ii) thirty (30) days after Licensee's receipt of notice, whichever is sooner. Licensee may object in writing to the notice prior to the occurrence of items i or ii. Any objections or changes to the notice shall require written agreement of both parties.

### **ARTICLE 4—GRANT OF LICENSE AND SCOPE OF USE**

The license grant and permitted uses specified in Article 3 and Article 4 of the General License Terms and Conditions (E200M) are restricted to use within the United States of America, its possessions, and territories. For Internet mapping Software, the server must be located within the United States of America, its possessions, and territories.

### **ARTICLE 5—TERMINATION; CANCELLATION**

#### **5.1 Termination**

This Agreement may be terminated by either party upon forty-five (45) days' written notice. Should the notice specify termination for cause, the recipient of the notice shall have fifteen (15) days in which to correct or cure any default or defect in performance. On termination of this Agreement, all accounts and payments will be processed according to financial arrangements set forth herein for performance rendered to the date of termination. After termination, Licensee shall no longer be permitted to place orders under this Agreement. ESRI, at its sole election, may terminate the right of any Authorized Entity to participate in this Agreement in accordance with this provision without terminating the Agreement with respect to the governmental body or any other Authorized Entity.

## **5.2 Cancellation**

Purchase orders, other than for the initial purchase, may be canceled by the Licensee in whole or in part, upon thirty (30) days' written notice to ESRI. There will be no cancellation charge for canceled Software unless the Software has been delivered. If the Software has been shipped, the cancellation will require Licensee payment of return shipping costs.

## **5.3 Deficiency Action**

Without prejudice to any other right or remedy available to ESRI, ESRI may terminate this Agreement provided Licensee is given thirty (30) days prior notice to cure deficiency.

- a. If Licensee fails to pay any license fees to ESRI in accordance with the requirements of this Agreement; or
- b. If Licensee distributes ESRI® Software, Data, and Documentation to any person or entity other than a Licensee; or
- c. If Licensee discloses any trade secret technology and other information proprietary to ESRI in breach of this Agreement.

## **5.4 License Survival**

Upon voluntary termination of this Agreement for the convenience of Licensee or expiration of this Agreement, Licensee may continue to retain and use such licensed ESRI Software, Data, and Documentation in accordance with the General License Terms and Conditions; Exhibit 1, Scope of Use; and any other license terms contained herein. Licensee may then directly and separately contract for Software updates, maintenance, and/or technical support service.

# **ARTICLE 6—NONAPPROPRIATION OF FUNDS; LIMITATION**

## **6.1 Funding**

Where the financial obligations of the Licensee payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available and the funds are not appropriated or otherwise available, this Agreement may be terminated as set forth in Article 5.

## **6.2 No Minimum Purchase**

Licensee does not guarantee to purchase any certain amount under this Agreement.

# **ARTICLE 7—ORDERS**

## **7.1 Licensee Purchase Orders**

Licensee shall issue purchase orders to ESRI for Software, Data, or services based on the fees specified in this Agreement. The terms and conditions of this Agreement shall govern all orders issued by Licensee. Any additional or different terms included with an order shall require specific approval by ESRI via a written modification to this Agreement to be binding.

## **7.2 Purchase Order Requirements**

All purchase orders shall reference and be subject to the terms and conditions of this Agreement.

The following information/statements shall also be included in each purchase order.

- a. Name or identification of Licensee, place of delivery, and the end user name and contact information
- b. Purchase order number
- c. Date delivery is requested (minimum thirty [30] days after ESRI receipt of order)
- d. Primary site for maintenance if primary maintenance is *not* ordered
- e. Quantity, description, and unit price
- f. On the face of the purchase order, print the following statement: "Subject to Master Purchase Agreement No. \_\_\_\_\_."

## **7.3 Additional Quotes**

Licensee may request a quote for any new or unlisted Software/services and issue a purchase order under this Agreement, provided ESRI may require additional license terms for use of the new or unlisted Software.

#### **7.4 Authorized Entity**

An Authorized Entity may order or acquire Software, Data, Documentation, services, updates, maintenance, or support under and subject to the terms and conditions of this Agreement.

#### **7.5 Registration/Keycode Request**

To activate Software, subject to a License Manager, Licensee may be required to obtain a keycode through ESRI's Web site at myESRI.com or through ESRI's Customer Service Department.

### **ARTICLE 8—ESRI AUTHORIZED RESELLER ORDERS**

Licensee may purchase ESRI Software from an authorized ESRI reseller at the MPA price. The following requirements must be satisfied:

- The quotation for ESRI Software and the selection of the ESRI reseller must comply with all applicable State and local public procurement laws and regulations;
- The ESRI reseller must be a member of the ESRI Business Partner Program in good standing at the time the order is placed with ESRI and be authorized to provide the Software ordered as defined at ESRI Web site <http://gis.esri.com/partners/index.html>. Select "Resellers" to view the authorized resellers and the Software they are authorized to provide; and
- The purchase order forwarded by the Licensee must list the information requested in Article 7.2, the ESRI reseller name, and the Software MPA pricing.

If all conditions of sale under the MPA are met, ESRI will accept the order and the authorized reseller will receive a sales commission. ESRI will deliver the ESRI Software directly to the Licensee, invoice, and receive payment for any such order. If ESRI does not accept the order, the Licensee may enter into a direct transaction with the ESRI reseller, and the order will not be processed under this MPA.

Upon request, the ESRI regional office will provide the Licensee with a list of authorized ESRI resellers in good standing that do business in the State.

### **ARTICLE 9—PRICING**

The specified prices stated herein are exclusive of shipping, and installation.

#### **9.1 Software, Maintenance, and Support**

ESRI will provide the Software, maintenance, and support specified at the prices provided within this Agreement. ESRI will provide technical support and maintenance services as specified by the Support Services policies described under "Support" ("Support Services Brochure") on the ESRI Web site home page at [www.esri.com](http://www.esri.com).

#### **9.2 Custom Software and Application Services**

ESRI services are contracted by way of a quote and purchase order process on a time and materials or firm fixed price basis. Services may only be contracted under this Agreement if this Agreement expressly incorporates the Custom Software, Technical Data, and Assistance License Addendum (E600) including the Time and Materials Rate Schedule (J-7264-a/BD), both of which provide the applicable terms, staffing, and hourly labor rates for any such work to be performed. Labor rates are subject to annual escalation, not-to-exceed 7.5%. Information and arrangements are available from the Implementation Services program manager at 909-793-2853, extension 1546.

#### **9.3 Training Services**

ESRI will provide training services at the prices specified in the ESRI MPA Price List attached hereto. Training will be provided in accordance with the policies defined under "Education and Training" at [www.esri.com](http://www.esri.com) and the ESRI Client Site Training Terms and Conditions (E207) incorporated herein. Training prices are subject to annual escalation, not-to-exceed 7.5 percent (7.5%). ESRI agrees to give Licensee thirty (30) days advance written notice of any such price escalation.

### **ARTICLE 10—TERMS OF COMPENSATION AND ACCEPTANCE**

#### **10.1 Terms of Compensation**

Software will be invoiced one-hundred percent (100%) upon shipment.

## **10.2 Acceptance and Payment**

Software installation and training services, as applicable, will be invoiced upon completion. When ESRI installation is ordered, acceptance occurs upon completion of ESRI Software installation and testing, unless rejected in writing.

Licensee agrees to pay each invoice in full within thirty-five (35) days of receipt of a valid invoice.

Unless rejected in writing, acceptance of any shipment of ESRI Software, Data, or Documentation shall be presumed to have occurred fifteen (15) days after shipment by ESRI.

ESRI may reject any purchase order if Licensee fails or refuses to pay any license or implementation services fee due.

## **ARTICLE 11—GENERAL PROVISIONS**

### **11.1 Notice**

Notice required or contemplated by either party must be delivered in person or by courier, express mail, facsimile, or postage-prepaid certified or registered airmail addressed to the party for whom it is intended at the address specified herein. Either party may change its address by giving prompt notice to the other party of the change.

Licensee Contact:

See signature page (E111)

ESRI Contact:

Contracts Manager  
ESRI  
380 New York Street  
Redlands, CA 92373-8100  
Phone: 909-793-2853  
Fax: 909-307-3020

### **11.2 Shipping and Handling**

- Standard shipping is by two (2)-day air via UPS or equivalent carrier.
- Expedited express delivery for Software can be arranged.
- It is suggested the shipping and handling charges be confirmed in advance as the ESRI invoicing program will incorporate the current fees automatically. Also, there may be periodic changes due to fluctuations in the transportation industry fees.